

INTERNATIONAL
CONVENTION
ON THE ELIMINATION
OF ALL FORMS OF
RACIAL DISCRIMINATION



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OF RACIAL DISCRIMINATION
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Third periodic reports of States parties due in 1984

Addendum

REPUBLIC OF KOREA 1/

[9 March 1984]

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1/ For previous reports submitted by the Government of the Republic of Korea and the summary records of the meetings of the Committee at which the reports were considered, see:

Initial report - CERD/C/61/Add.2 (CERD/C/SR.505-SR.506);

Second periodic report - CERD/C/86/Add.1 (CERD/C/SR.564).

PART I. GENERAL

A. Background of the Homogeneity of the Korean People

6. Archaeological and linguistic studies have established that Tungusic tribes from the Altaic Mountains settled in the Korean peninsula some 5,000 years ago. Since then, the Korean people have retained their homogeneous nature, sharing distinct physical characteristics, one language and one culture.

7. With this background of homogeneity, the Korean people have not met any problem of racial discrimination or segregation, neither in theory nor in practice, in all aspects of their lives throughout history.

8. The demographic composition of the population of the Republic of Korea was referred to in part I of its second periodic report. The foreign minority groups residing in Korea were only 0.08 per cent of the total population as of 1982.

B. The question whether the Convention would be incorporated as new legislation into domestic law

9. The Government of the Republic of Korea reaffirms that the Convention has already been put into force in accordance with article 5 (1) of its Constitution, which reads as follows:

"Treaties duly concluded and promulgated in accordance with the Constitution and the generally recognized rules of international law shall have the same effect as the domestic laws of the Republic of Korea."

10. The Government of the Republic of Korea did not make a reservation on any article of the Convention when it acceded to it in 1978.

11. The Convention was ratified by the National Assembly and was promulgated in due course on 4 January 1979. Since then, the Convention has the same effect as the domestic law of the Republic.

12. It is, therefore, clear that there is no need to take legislative measures to incorporate the Convention into domestic law.

C. The question whether foreigners could enjoy civil rights set out in article 5 (d) of the Convention

13. Foreigners residing in Korea enjoy their rights pursuant to article 5 (2) of its Constitution which reads as follows:

"The status of aliens shall be guaranteed in accordance with international law and treaties."

14. Details will be reviewed in part II, paragraph 24 of the present report.

PART II. INFORMATION IN RELATION TO ARTICLES 2 TO 7

Article 2

15. With the background of homogeneity and the Constitutional safeguard as explained in the introduction of this report, the Government of the Republic of Korea has never been engaged in the act or practice of racial discrimination against persons, groups of persons or institutions, and in sponsoring or supporting such discrimination.

16. The Government took the following measures with regard to the efforts of the international community to eradicate all forms of racial discrimination:

(a) Annual messages by the Minister of Foreign Affairs addressed to the United Nations on the occasion of International Day for the Elimination of Racial Discrimination under the auspices of the United Nations.

(b) Participation in the World Conferences to Combat Racism and Racial Discrimination held in 1978 and in 1983.

(c) Signing of the Convention on the Elimination of All Forms of Discrimination against Women on 25 May 1983.

Article 3

17. As stated in previous reports, the Government of the Republic of Korea has positively responded to the international campaign to condemn apartheid and racism.

18. President Chun Doo Hwan unreservedly condemned the policy of apartheid and the régime of South Africa in joint communiqués with the leaders of Gabon, Kenya, Nigeria and Senegal in 1982 when he made state visits to those countries.

19. The Government has suspended exchanges with the South African régime, including diplomatic relations. Important measures taken by the Government in addition to those mentioned in part II of the second periodic report include the rejection of issuing visas to groups or individual participants from South Africa in the following events held in Seoul, namely:

(a) International Amateur Basketball Championship in 1982;

(b) International Trade Fair in 1982;

(c) World Media Conference in 1982.

Article 4

20. The Constitution of the Republic condemns ideas or theories of the superiority of one race or group of persons of one colour or ethnic origin and any attempt to justify or promote racial hatred and discrimination in any form.

Article 10 of the Constitution stipulates as follows:

"(1) All citizens shall be equal before the law, and there shall be no discrimination in all fields of political, economic, social or cultural life on account of sex, religion or social status.

"(2) No privileged caste shall be recognized or ever established in any form."

21. In this context, article 4 of the Convention is endorsed by the above provision of the Constitution and has the same effect as its domestic law under article 5 (1) of the Constitution.

Article 5.

22. The provisions of the Constitution relating to article 5 of the Convention were referred to in part II of the second periodic report.

23. The questions raised by members of the Committee regarding domestic legislation on article 5 of the Convention are answered as follows:

(a) Article 13 of the Constitution stipulates that all citizens shall enjoy freedom of residence and movement. This article includes the right to leave the country freely and to return.

(b) Article 30 (1) of the Constitution reads as follows:

"All citizens shall have the right to work. The State shall endeavor to promote the employment of workers and to guarantee optimum wages through social and economic means."

Under article 30 (1) of the Constitution, article 5 of the "Labour Standard Act" stipulates as follows:

"No employer shall discriminate against employees by distinction of sex, nor may he include any discrimination in the terms of labour conditions because of nationality, religion, or social status."

24. The question whether foreigners in Korea could enjoy the fundamental rights of article 5 (d) of the Convention is answered as follows:

(a) Foreigners residing in Korea shall enjoy the fundamental rights under article 5 (2) of the Constitution which was mentioned in part I of this report.

(b) Civil rights set out in article 5 (d) of the Convention are equally applicable to foreigners, except the following:

"[...]"

"(ii) the right to leave the country freely and to return is subject to the 'Exit and Entry Control Act'. The Act was enacted in compliance with article 5 (2) of the Constitution.

"[...]

"(v) the right to own property alone as well as in association with others is limited by the 'Alien Land Acquisition Act' in compliance with article 5 (2) of the Constitution."

(c) "Conflict of Laws of Act" is applicable to the legal questions which may arise owing to the conflict between the provisions of foreigners' national laws and those of Korea.

Article 6

25. The Constitution of the Republic of Korea assures everyone within its jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination.

26. The following articles of the Constitution refer to protection and remedies for damages suffered as a result of such discrimination:

Article 11 of the Constitution:

"(1) All citizens shall enjoy personal liberty. No person shall be arrested, detained, searched, seized, interrogated, punished, or placed under probationary supervision ...

"[...]

"(5) All persons who are arrested or detained shall have the right to request the court to review the legality of the arrest or detention."

Article 25 of the Constitution:

"(1) All citizens shall have the right to petition in writing any State agency in accordance with the provisions of the law.

"(2) The State shall be obligated to examine all such petitions."

Article 26 of the Constitution:

"(1) All citizens shall have the right to be tried in conformity with the law by judges qualified under the Constitution and the law.

"(3) All citizens shall have the right to a speedy trial. A criminal defendant shall have the right to a public trial without delay in the absence of justifiable reasons to the contrary."

Article 7

A. Education and Teaching

27. The Constitution of the Republic of Korea provides the following articles in this field:

Article 21 of the Constitution:

"All citizens shall enjoy freedom of learning and the arts."

Article 14 of the Constitution:

"All citizens shall enjoy freedom of choice of occupation."

Article 29 of the Constitution:

"(1) All citizens shall have the right to receive an equal education corresponding to their abilities.

"(2) All citizens who have children to support shall be responsible at least for their elementary education and other education as provided by law.

"(3) Compulsory education shall be free.

"(5) The State shall promote lifelong education."

28. Article 81 of the "Education Act" reads as follows:

"The following schools shall be established for all the people to receive education equally corresponding to their abilities without discrimination by their religion, sex, social status and economic position, etc.:

1. Elementary schools, middle schools, high schools and colleges or universities;
2. Teachers' colleges and normal colleges;
3. Technical professional colleges, radio and correspondence colleges, and open colleges;
4. Technical schools, and special technical schools;
5. Civic schools and special civic schools;
6. Special schools;
7. Kindergartens; and
8. Miscellaneous schools."

29. These schools have lectures and textbooks in their curricula on the functions of the United Nations in general, and its activities with regard to human rights and racial discrimination in particular.

B. Culture

30. The role of institutions or associations working to develop national culture and traditions is safeguarded by the Constitution and relevant provisions of laws of the Republic of Korea.

31. As stated in part I of this report, there are no ethnic groups, no cultural differences in Korea. However, the Government has made strenuous efforts to promote mutual understanding on traditional cultures among nations. A good example of its efforts is the exhibition of "5,000 years of Korean Treasures and Arts" now being held in London.

32. The measures taken by the Government of the Republic of Korea in support of the international campaign to eradicate racial discrimination and apartheid were referred to in part II of the second periodic report and part II, paragraphs 17 to 19 of the present report.

C. Information

33. Article 20 (2) of the Constitution reads as follows:

"Neither speech nor the press shall violate the honor or rights of other persons, or undermine public morals or social ethics. Should speech or the press violate the honor or rights of other persons, claims may be made for the damage resulting therefrom."

34. Article 10 of the Constitution reads as follows:

"(1) All citizens shall be equal before the law, and there shall be no discrimination in all fields of political, economic, social or cultural life on account of sex, religion or social status.

"(2) No privileged caste shall be recognized or ever established in any form."

35. Dissemination of information for the purpose of racial discrimination or incitement to it constitutes offences against the above provisions of the Constitution.